

initial grant date, or within 12 months of the date of the release of the terms of an agreement between the United States and Canadian governments on the sharing of 220–222 MHz spectrum between the two countries, whichever is later. The authorization of a licensee that does not construct its base station and place it in operation, or commence service, by this date, cancels automatically and must be returned to the Commission.

[61 FR 3845, Feb. 2, 1996]

POLICIES GOVERNING THE LICENSING AND
USE OF PHASE II EA, REGIONAL AND
NATIONWIDE SYSTEMS

SOURCE: 62 FR 15998, 15999, Apr. 3, 1997, unless otherwise noted.

§ 90.761 EA and Regional licenses.

(a) EA licenses for spectrum blocks listed in Table 2 of § 90.721(b) are available in 175 Economic Areas (EAs) as defined in § 90.7.

(b) Regional licenses for spectrum blocks listed in Table 2 of § 90.721(b) are available in six Regional Economic Area Groupings (REAGs) as defined in § 90.7.

§ 90.763 EA, Regional and nationwide system operations.

(a) A nationwide licensee authorized pursuant to § 90.717(a) may construct and operate any number of land mobile or paging base stations, or fixed stations, anywhere in the Nation, and transmit on any of its authorized channels, provided that the licensee complies with the requirements of § 90.733(i).

(b) An EA or Regional licensee authorized pursuant to § 90.761 may construct and operate any number of land mobile or paging base stations, or fixed stations, anywhere within its authorized EA or REAG, and transmit on any of its authorized channels, provided that:

(1) The licensee affords protection to all authorized co-channel Phase I non-nationwide base stations as follows:

(i) The EA or Regional licensee must locate its land mobile or paging base stations, or fixed stations transmitting on base station transmit frequencies, at least 120 km from the land mobile or

paging base stations, or fixed stations transmitting on base station transmit frequencies, of co-channel Phase I licensees, except that separations of less than 120 km shall be considered on a case-by-case basis upon submission by the EA or Regional licensee of:

(A) A technical analysis demonstrating at least 10 dB protection to the predicted 38 dBu service contour of the co-channel Phase I licensee, *i.e.*, demonstrating that the predicted 28 dBu interfering contour of the EA or Regional licensee's base station or fixed station does not overlap the predicted 38 dBu service contour of the co-channel Phase I licensee's base station or fixed station; or

(B) A written letter from the co-channel Phase I licensee consenting to a separation of less than 120 km, or to less than 10 dB protection to the predicted 38 dBu service contour of the licensee's base station or fixed station.

(ii) The Phase I licensee's predicted 38 dBu service contour referred to in paragraph (a)(1)(i) of this section is calculated using the F(50,50) field strength chart for Channels 7–13 in § 73.699 (Fig. 10) of this chapter, with a 9 dB correction factor for antenna height differential, and is based on the licensee's authorized effective radiated power and antenna height-above-average-terrain. The EA or Regional licensee's predicted 28 dBu interfering contour referred to in paragraph (a)(1)(i) of this section is calculated using the F(50,10) field strength chart for Channels 7–13 in § 73.699 (Fig. 10a) of this chapter, with a 9 dB correction factor for antenna height differential.

(2) The licensee complies with the requirements of § 90.733(i).

(3) The licensee limits the field strength of its base stations, or fixed stations operating on base station transmit frequencies, in accordance with the provisions of § 90.771.

(4) Upon request by a licensee or the Commission, an EA or regional licensee shall furnish the technical parameters, location and coordinates of the completion of the addition, removal, relocation or modification of any of its facilities within the EA or region. The EA or regional licensee must provide such information within

ten (10) days of receiving written notification.

(c) In the event that the authorization for a co-channel Phase I base station, or fixed station transmitting on base station transmit frequencies, within an EA or Regional licensee's border is terminated or revoked, the EA or Regional licensee's channel obligations to such stations will cease upon deletion of the facility from the Commission's official licensing records, and the EA or Regional licensee then will be able to construct and operate without regard to the previous authorization.

[62 FR 15998, 15999, Apr. 3, 1997, as amended at 63 FR 68973, Dec. 14, 1998]

EFFECTIVE DATE NOTE: At 63 FR 68973, Dec. 14, 1998, §90.763 was amended by revising paragraph (b)(4). This section contains information collection and recordkeeping requirements, and the amendment will not become effective until approval has been given by the Office of Management and Budget.

§90.765 Licenses term for Phase II licenses.

Nationwide licenses authorized pursuant to §90.717(a), EA and Regional licenses authorized pursuant to §90.761, and non-nationwide licenses authorized pursuant to §§90.720 and 90.719(c) will be issued for a term not to exceed ten years.

§90.767 Construction and implementation of EA and Regional licenses.

(a) An EA or Regional licensee must construct a sufficient number of base stations (*i.e.*, base stations for land mobile and/or paging operations) to provide coverage to:

(1) At least one-third of the population of its EA or REAG within five years of the issuance of its initial license; and

(2) At least two-thirds of the population of its EA or REAG within ten years of the issuance of its initial license.

(b) EA and Regional licensees offering fixed services as part of their system, and EA and Regional licensees that have one or more incumbent, co-channel Phase I licensees authorized within their EA or REAG may meet the construction requirements of paragraph (a) of this section by demonstrating an appropriate level of substantial service at their five- and ten-year benchmarks.

onstrating an appropriate level of substantial service at their five- and ten-year benchmarks.

(c) Licensees must notify the Commission in accordance with §1.946 of this chapter of compliance with the Construction requirements of paragraphs (a) and (b) of this section.

(d) Failure by an EA or Regional licensee to meet the construction requirements of paragraph (a) or (b) of this section, as applicable, will result in automatic cancellation of its entire EA or Regional license. In such instances, EA or Regional licenses will not be converted to individual, site-by-site authorizations for already constructed stations.

(e) EA and Regional licensees will not be permitted to count the resale of the services of other providers in their EA or REAG, *e.g.*, incumbent, Phase I licensees, to meet the construction requirement of paragraph (a) or (b) of this section, as applicable.

(f) EA and Regional licensees will not be required to construct and place in operation, or commence service on, all of their authorized channels at all of their base stations or fixed stations.

[62 FR 15998, 15999, Apr. 3, 1997, as amended at 63 FR 68973, Dec. 14, 1998]

§90.769 Construction and implementation of Phase II nationwide licenses.

(a) A nationwide licensee must construct a sufficient number of base stations (*i.e.*, base stations for land mobile and/or paging operations) to provide coverage to:

(1) A composite area of at least 750,000 square kilometers or 37.5 percent of the United States population within five years of the issuance of its initial license; and

(2) A composite area of at least 1,500,000 square kilometers or 75 percent of the United States population within ten years of the issuance of its initial license.

(b) Nationwide licensees offering fixed services as part of their system may meet the construction requirements of paragraph (a) of this section by demonstrating an appropriate level of substantial service at their five- and ten-year benchmarks.